

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **Berggren, Bosfrom, Cheng, Elebring, Greasley, Nagard, Wilstermann, and Terricabras**

Serial No.: **10/540,276**

Group Art Unit: **1626**

Filed: **June 21, 2005**

Examiner: **Shawquia Young**

Confirmation No.: **8864**

Title: **1,5-Diaryl-Pyrrole-3-Carboxamide Derivatives And Their Use As Cannabinoid Receptor Modulators**

**Mail Stop Amendment**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**RESPONSE TO THE RESTRICTION REQUIREMENT**

The present Response is filed in regard to the Restriction Requirement mailed July 3, 2006 in connection with the above-identified patent application.

The Examiner has restricted claims 1-4 into 5 exemplary groups. **Applicants elect Group I, containing claims 1-12, 14, and 19-21 where R<sup>1</sup> is phenyl** (as outlined at page 3 of the Restriction Requirement).

Even if the Examiner still considers the groups of claims to be patentably distinct, §803 of the M.P.E.P. mandates two criteria for a proper requirement for restriction: 1) the inventions must be independent or distinct; and 2) there must be a serious burden on the examiner. For purposes of initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in M.P.E.P. §808.02. Significantly, the Examiner has not met the *prima facie* burden. Indeed, the Examiner has not shown separate status in the art or a requirement for a different field of search. Further, Groups I and II have, in fact, been classified into identical classes (class 548), thus, strongly indicating a lack of serious burden.

Accordingly, *all pending claims*, or at least claims of Groups I and II, should be examined in the present application without restriction.

Applicants submit that the present response is complete and complies with the requirements of 35 U.S.C. §121.

Respectfully submitted,

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Date: **17 July 2006**

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